

Wild Animals in Circuses: The Inadequacy of Current Legislative Welfare Protection and the Need for Implementing a Total Ban

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This critical analysis presents a case for the need to implement the Wild Animals in Circuses Bill in England if, as stated by Parliament, the welfare of wild animals is to be guaranteed. It will begin by setting out the current legislative protection for wild animals used in travelling circuses, as well as Parliamentary development on the issue since being initially raised as an issue by the 2010 Coalition government. This will be followed by the examination and analysis of the licensing scheme and other legislative protection that is currently in effect, highlighting its inadequacy at satisfying the welfare requirements of the wild animals used in circuses. I will then turn to an examination and analysis of the Wild Animals in Circuses Bill drafted by the Department for Environment, Food and Rural Affairs that is yet to be implemented, acknowledging its potential for safeguarding the welfare of wild animals but remaining sceptical as to its implementation due to the recent attitude of the Conservative government toward animal welfare issues, and lack of attention afforded to animal welfare issues in general. Finally, this critical analysis will commend the approach taken by the Scottish Parliament in undergoing the process of implementing the Wild Animal in Travelling Circuses (Scotland) Bill that constitute a total ban, as well as for its generally positive attitude to dealing with animal welfare issues by comparison to that of the English government.

Current Legislative Protection

The Animal Welfare Act 2006 sets out the regulations for animal welfare across England. The welfare protection of wild animals in circuses falls within the ambit of this Act. A public consultation carried out by the Labour Government in 2010 found that “94.5% of respondents considered that a ban on the use of wild animals in circuses would be the best option to achieve better welfare standards”.¹ Following this, the Coalition government decided in May 2011 to introduce a licensing scheme for animals in circuses.² The reason for implementing a licensing scheme, as opposed to a total ban, was the belief that a ban would require primary legislation that would face potential legal impediments on the European level.³ However following the failure of the legal challenges launched against a domestic ban on wild animals in circuses by Austria, the UK government announced in March 2012 that it would “bring forward primary legislation at the earliest opportunity to ban circuses from using wild animals”.⁴ The licensing scheme would still, however, be implemented, so as to ensure “high welfare conditions for wild animals” until the

¹ Elena Ares, Hannah Cromarty, “Wild Animals in Circuses” Briefing Paper (House of Commons Library, 29 April 2016), p3

² *ibid.* p3

³ *ibid.* p12

⁴ *ibid.* p9

ban could be introduced.⁵ The regulations to introduce the licensing scheme came into force in January 2013.⁶ Shortly after this, the Wild Animals in Circuses Bill was drafted and published by the Coalition Government, forbidding “any circus operator to use a wild animal in performance or exhibition in a travelling circus in England”.⁷ It has since been confirmed that legislation will be introduced “when parliamentary time allows”.⁸ A Private Members’ Bill, the Wild Animals in Circuses (Prohibition) Bill 2015-16, proposing to ban the use of wild animals in circuses, was introduced under the Ten Minute Rule in February 2016, however a second reading never took place.⁹

The Licensing Scheme

The licensing scheme is governed by The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012. In order to effectively analyse the license scheme, this section will examine the scheme in terms of the conditions for granting an application, the regulation of persons interacting with licensed animals, and the elements that must be considered in the keeping, training and transporting of licensed animals.

In order for a licence to be granted, the Secretary of State must be “satisfied that the licensing conditions are or will be met”,¹⁰ and a licence may only be granted once “the travelling circus has been inspected by an inspector”.¹¹ In deciding whether the conditions will be met, the Secretary of State may account for “the applicant’s conduct as the operator of the travelling circus”,¹² as well as “any other circumstances that are relevant”.¹³ The license is restricted to those who have not previously been disqualified from: keeping a pet shop,¹⁴ from having custody of an animal,¹⁵ from keeping a boarding establishment for animals,¹⁶ from keeping a riding establishment,¹⁷ from keeping a breeding establishment,¹⁸ or from keeping a dangerous wild animal.¹⁹ The Secretary of State reserves the power to suspend a license at any time “if satisfied that the licensing conditions have not been complied with”.²⁰

⁵ *ibid.* p9

⁶ *ibid.* p11

⁷ *ibid.* p15

⁸ *ibid.* p3

⁹ *ibid.* p18

¹⁰ The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2013, Section 4.1.a

¹¹ *ibid.* Section 4.1.d

¹² *ibid.* Section 4.2

¹³ *ibid.* Section 4.2

¹⁴ *ibid.* Section 5.a

¹⁵ *ibid.* Section 5.b

¹⁶ *ibid.* Section 5.c

¹⁷ *ibid.* Section 5.d

¹⁸ *ibid.* Section 5.e

¹⁹ *ibid.* Section 5.f

²⁰ *ibid.* Section 9

The Schedule of the act is composed of ten licensing conditions that are set to ensure adequate welfare for a wild animal acquired and kept by the circus. The conditions require that notice of the acquisition of a wild animal is given to the Secretary of State before it is acquired,²¹ and that detailed records with “all the information necessary to identify the animal individually” are kept.²² The conditions for care plans require that both individual and group care plans are established and brought into effect for each animal,²³ all of which must be agreed to by the lead veterinary surgeon.²⁴ The care plans must include a risk assessment for each animal relating principally to their training and performance,²⁵ behavioural and environmental enrichment,²⁶ breeding policy,²⁷ dietary requirements,²⁸ preventative medicine,²⁹ and “daily recording of all factors relevant to the welfare of licensed animals”.³⁰ Additionally, the care plan must include “suitable provision for the retirement of licensed animals”.³¹

The conditions also regulate the persons with access to the animals,³² principally requiring that “access to licensed animals is restricted to persons with the appropriate qualifications and experience for the activities those persons undertake”.³³ It must be ensured that this sufficiently qualified and experienced person is at all times “in overall charge of the animals at any place where licensed animals are kept”,³⁴ and that they are endowed with “the necessary authority to ensure that the licensing conditions are complied with”.³⁵ A veterinary surgeon must also be appointed for licensed animals,³⁶ and is required to inspect, or oversee an inspection, of the animals at least once every three months.³⁷

The operator must “take all reasonable steps to ensure that the needs of a licensed animal are met to the extent required by good practice”.³⁸ The needs covered by this responsibility include a suitable environment,³⁹ a suitable diet,⁴⁰ the

²¹ *ibid.* Schedule, Condition 1

²² *ibid.* Schedule, Condition 3

²³ *ibid.* Schedule, Condition 4.1

²⁴ *ibid.* Schedule, Condition 4.2

²⁵ *ibid.* Schedule, Condition 4.3.a

²⁶ *ibid.* Schedule, Condition 4.3.b

²⁷ *ibid.* Schedule, Condition 4.3.c

²⁸ *ibid.* Schedule, Condition 4.3.d

²⁹ *ibid.* Schedule, Condition 4.3.e

³⁰ *ibid.* Schedule, Condition 4.3.f

³¹ *ibid.* Schedule, Condition 4.4

³² *ibid.* Schedule, Condition 5

³³ *ibid.* Schedule, Condition 5.1

³⁴ *ibid.* Schedule, Condition 5.6.a

³⁵ *ibid.* Schedule, Condition 5.6.b

³⁶ *ibid.* Schedule, Condition 6.1

³⁷ *ibid.* Schedule, Condition 6.4

³⁸ *ibid.* Schedule, Condition 7.1

³⁹ *ibid.* Schedule, Condition 7.2.a

⁴⁰ *ibid.* Schedule, Condition 7.2.b

ability to exhibit normal patterns of behaviour,⁴¹ a need to be housed individually or socially,⁴² and the need to be protected from pain, suffering, injury and disease. For the display, training or performance of an animal, it is necessary that they are “fit for the intended activity”,⁴³ and that the activity is “halted if the animal shows any sign of pain, suffering, injury or disease.”⁴⁴ It is prohibited that the desired behaviour is sought from the animal in any way that could cause pain, suffering, injury or disease,⁴⁵ and no equipment may be used in such way as to cause the same result.⁴⁶ In ensuring adequate welfare standards, the conditions also regulate any environment “to which an animal has or will have access”.⁴⁷ This entails the operator taking reasonable steps to minimise loud or unexpected noises,⁴⁸ to “provide the animal with shelter from adverse weather conditions”,⁴⁹ to “minimise distress to the animal from environmental factors such as strobe lighting or smoke”,⁵⁰ and to “manage environmental variables such as temperature and humidity at levels appropriate to safeguard the welfare of the animal”.⁵¹ Any food or water consumed by the animal must be stored in such a way as to “protect the health and welfare of the animal”.⁵² Animals must be housed in accommodation that is designed, constructed and maintained to be “free from hazards”,⁵³ “compatible with the social and welfare needs of the animal”,⁵⁴ “secure”,⁵⁵ and “of an appropriate size”.⁵⁶

Finally, the Schedule sets out the conditions for the transportation of licensed animals. The requirements include that the animal be “fit for the intended journey”,⁵⁷ with the “means of transport and any containers and fittings used in the transport” being “designed, constructed, maintained and operated in such a way as to ensure the welfare of the animal”.⁵⁸ It is crucial that “all necessary arrangements, including a contingency plan have been made in advance to minimise the length of the journey and to secure the welfare of the animal during the journey”,⁵⁹ and that “on arrival at the final destination, the details are recorded of the actual journey times and of any action taken or planned in response to possible injury or distress to the animal arising from the transport”.⁶⁰

⁴¹ *ibid.* Schedule, Condition 7.2.c

⁴² *ibid.* Schedule, Condition 7.2.d

⁴³ *ibid.* Schedule, Condition 8.a

⁴⁴ *ibid.* Schedule, Condition 8.b

⁴⁵ *ibid.* Schedule, Condition 8.c

⁴⁶ *ibid.* Schedule, Condition 8.d

⁴⁷ *ibid.* Schedule, Condition 9.1

⁴⁸ *ibid.* Schedule, Condition 9.1.a

⁴⁹ *ibid.* Schedule, Condition 9.1.b

⁵⁰ *ibid.* Schedule, Condition 9.1.c

⁵¹ *ibid.* Schedule, Condition 9.1.d

⁵² *ibid.* Schedule, Condition 9.2

⁵³ *ibid.* Schedule, Condition 9.2.a

⁵⁴ *ibid.* Schedule, Condition 9.2.b

⁵⁵ *ibid.* Schedule, Condition 9.2.c

⁵⁶ *ibid.* Schedule, Condition 9.2.d

⁵⁷ *ibid.* Schedule, Condition 10.b

⁵⁸ *ibid.* Schedule, Condition 10.c

⁵⁹ *ibid.* Schedule, Condition 10.d

⁶⁰ *ibid.* Schedule, Condition 10.e

Additional Legislative Protection

In addition to the licensing scheme, there are two other main sources of legislation relevant to wild animals in travelling circuses. The first of these is the Animal Welfare Act 2006,⁶¹ which allowed for the licensing scheme to be established.⁶² More generally, the Animal Welfare Act “makes it an offence for any person responsible for an animal, including all wild animals in travelling circuses, to fail to provide for their animal’s welfare needs”.⁶³ The welfare requirements for a wild animal include “its need for a suitable environment; its need for a suitable diet; its need to be able to exhibit normal behavioural patterns; its need to be housed with, or apart from, other animals; and its need to be protected from any pain, suffering, injury or disease”.⁶⁴ In addition to this, it “makes it a criminal offence to cause an animal any unnecessary pain or suffering”,⁶⁵ setting the punishment for the offence of causing unnecessary suffering at a maximum penalty of a fine of £20,000 or six months’ imprisonment, or both.⁶⁶ It sets the penalty for the offence of failing to provide for the welfare of an animal at a fine of £5000 or six months’ imprisonment, or both.⁶⁷ The second main piece of legislation is the Performing Animals (Regulation) Act 1925, which “requires anyone who trains or exhibits animals to register with a local authority, stating details of the animals involved”.⁶⁸ It also “gives powers to local authorities to enter premises”.⁶⁹

Analysis of Current Legislative Protection

The conditions to the Scheme are comprehensive and seem to ensure that only those sufficiently qualified and experienced to operate the animals are granted the license to do so. It also provides for fundamental guarantees of wellbeing when being transported, trained, and used in shows. However the licensing scheme was implemented “to ensure high welfare conditions for wild animals” until the bill could be implemented,⁷⁰ and it is for this reason that the need for a ban is clearly evident; there are obvious limits to welfare protection that the licensing scheme cannot prevent. Essentially, the welfare of animals can never be sufficiently met by a travelling circus – the purpose for implementing a ban in the first place.

⁶¹ Animal Welfare Act 2006

⁶² HM Government, Wild Animals In Circuses (Draft), April 2013, Briefing Paper, p7

⁶³ *ibid.* p7

⁶⁴ *ibid.* p7

⁶⁵ *ibid.* p7

⁶⁶ *ibid.* p7

⁶⁷ *ibid.* p7

⁶⁸ *ibid.* p7

⁶⁹ *ibid.* p7

⁷⁰ Elena Ares, Hannah Cromarty, *supra* note 1, p9

Applied ethology dealing with the “behaviour of animals reared by humans”⁷¹ is increasingly focusing on the attribution of mental states to animals, maintaining that “welfare is fulfilled when the animals do not feel any long lasting negative emotions and when they can experience positive emotions”.⁷² The licensing scheme alludes to environmental enrichment and the minimising of stressful environmental factors such as loud noises or strobe lighting.⁷³ However as these ambient elements of the travelling circus are constant and neither could nor would ever be entirely eliminated, it is possible that they may cause such long lasting negative emotions. It is hard to imagine an animal enjoying positive emotions and overall wellbeing when regularly transported, exposed to flashing lights and thunderous noises endemic to the circus environment.

The Scheme strives to guarantee that animals exhibit “normal patterns of behaviour”.⁷⁴ I argue that this aim is fundamentally flawed as there is nothing normal about being trained, caged, or exposed to such conditions for any wild animal. The Mirror recently promoted a petition seeking to hasten its implementation of the Bill banning to use of wild animals in travelling circuses after sharing a picture of three lions and two tigers huddled together in “cramped cages on a lorry next to one of Britain’s busiest motorways”.⁷⁵ The tabloid reported that the spirits of these animals were “broken by their miserable living conditions”.⁷⁶ Such unnatural and unhealthy living conditions can induce stereotypy in captive animals, which, simply put, is a classification of a repetitive, invariant and abnormal behavioural pattern.⁷⁷ In certain cases it may cause irreversible alterations to the brain,⁷⁸ meaning that these conditions are clearly putting the welfare of these animals in serious danger.

In November 2016, the Express reported that there were two licensed wild animal circuses in the UK that, between them, had “six reindeer, three camels, three zebra, a fox, a macaw, a racoon and a zebu”.⁷⁹ In addition to the obvious fact that all of these animals are in environments drastically different to their native environments, given the nature of each animal, it is doubtful that the travelling

⁷¹ Lara Désiré, Alain Boissy, Isabelle Veissier, “Emotions in Farm Animals: a new approach to animal welfare in applied ethology”, (*Researchgate*, 25 February 2002) https://www.researchgate.net/profile/Isabelle_Veissier/publication/240369893_Emotions_in_farm_animals/links/53d259860cf2a7fbb2e996bb accessed 14 June 2017

⁷² *ibid.*

⁷³ The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2013, *supra* note 10, Schedule, Condition 9.1.c

⁷⁴ *ibid.*, Condition 7.2.c

⁷⁵ Lewis Panther, “Lions and tigers in cramped conditions next to busy motorway so join campaign to ban wild animals from circuses”, (*The Mirror*, 14 January 2017) <http://www.mirror.co.uk/news/uk-news/lions-tigers-cramped-conditions-next-9582746> accessed 14 June 2017

⁷⁶ *ibid.*

⁷⁷ Georgia Mason, Jeffrey Rushen, “Stereotypic Animal Behaviour: Fundamentals and Applications to Welfare”, (2nd edition, *Cromwell Press*, 2006)

⁷⁸ *ibid.*

⁷⁹ Alix Culbertson, “Westminster delays animal circus ban by five years despite public horror at cruel practice”, (*The Express*, 28 November 2016) <http://www.express.co.uk/news/uk/737368/Animal-circus-ban-delayed-five-years-public-horror> accessed 14 June 2014

circus will be able to cater for their specific needs, or be able to enrich their environment sufficiently so as to ensure an adequate standard of welfare. A concise examination of the natures and natural environmental conditions of the Macaw and the Fox exemplifies this point.

According to National Geographic, “Macaws are intelligent, social birds that often gather in flocks of 10 to 30 individuals”.⁸⁰ In this specific case, the circus is licensed to own just one macaw, meaning that its natural tendency to gather in flocks is not being catered for. “Flocks sleep in the trees at night, and in the morning they may fly long distances to feed”⁸¹ - to what extent may this sleeping environment be replicated by the circus, and does this Macaw ever enjoy flying long distances? Finally, “Macaws typically mate for life. They not only breed with, but also share food with their mates and enjoy mutual grooming”.⁸² One Macaw in captivity is clearly unable to express these highly motivated behaviours fundamental to its species and its life in the wild, and no amount of environmental enrichment or welfare conditions could compensate for this; a total ban of their use is the only option that would guarantee that their welfare.

This circus is also licensed to keep one fox. In the wild, foxes also live in social groups, often with three or four adults, and periodically with a litter.⁸³ One fox being kept in the circus is unable to enjoy its typical social conditions. When not hunting, certain foxes will “spend their time curled up under a brush pile, under shrubs or in heavy thicket”.⁸⁴ In the circus environment, it is unlikely that foxes will be able to neither hunt, nor to enjoy curling up and hiding in such a way. Additionally, they are nocturnal or crepuscular animals,⁸⁵ meaning that being exhibited in the daylight and possible exposure to bright or strobe lighting will be highly abnormal and stressful for them. Finally, they often mate for life,⁸⁶ resulting in one more fundamental behavioural element that is not being replicated by this circus.

The fact that the Licence Scheme was established in order to ensure “high conditions of welfare for wild animals” prior to the introduction of the Bill is particularly reprehensible;⁸⁷ the conditions in which the circus animals were reported as being kept in, according to the Mirror, are clearly distressing to and inadequate for them. Additionally, considering the social habits, natures, and motivated behaviours of these wild animals, it is clear that their welfare could only be ensured through a total ban that would prohibit their use in circuses altogether.

⁸⁰ National Geographic, “Macaws”, <http://www.nationalgeographic.com/animals/birds/group/macaws/> accessed 2014 June 2014

⁸¹ *ibid.*

⁸² *ibid.*

⁸³ “Understand fox behaviour”, (*Discover Wildlife*, 16 July 2010)

<http://www.discoverwildlife.com/british-wildlife/understand-fox-behaviour> accessed 14 June 2017

⁸⁴ “All about the red fox”, (*Welcome Wildlife*) <http://www.welcomewildlife.com/all-about-the-red-fox/> accessed 14 June 2017

⁸⁵ *ibid.*

⁸⁶ *ibid.*

⁸⁷ Elena Ares, Hannah Cromarty, *supra* note 1, p9

Wild Animals in Circuses (Draft) Bill

The Wild Animals in Circuses (Draft) Bill was presented to Parliament by the Secretary of State for Environment, Food and Rural Affairs in April 2013.⁸⁸ The Draft is preceded by a foreword by Lord de Mauley, a Parliamentary Under-Secretary at the Department for Environment, Food and Rural Affairs. The foreword alludes to the “overwhelming view of the public” that “travelling circuses are no place for wild animals”,⁸⁹ as well as emphasising the importance of ensuring that “our international reputation as a leading protector of animals continues into a new global era”.⁹⁰

The key purpose of the bill is to prohibit “the use of wild animals in travelling circuses in England”.⁹¹ The bill defines animals as “any vertebrate animal of a kind which is not normally domesticated in Great Britain”.⁹² For breach of the prohibition on use, the bill imposes a maximum penalty of a fine not exceeding £5000.

The draft includes reasoning against the use of wild animals in circuses, summarising its argument in with four key points. The first is that “it is not necessary to use wild animals in travelling circuses to experience the circus”.⁹³ Secondly, that “wild animals are just that and are not naturally suited to travelling circuses and may suffer as a result of being unable to fulfil their instinctive natural behaviour”.⁹⁴ Thirdly, that “we should feel duty-bound to recognise that wild animals have intrinsic value, and respect their inherent wildness and its implication for their treatment”,⁹⁵ and fourthly, that “the practice adds nothing to the understanding and conservation of wild animals and the natural environment”.⁹⁶

The Schedule of the Draft Bill provides the means for its enforcement. It does this by providing for the appointment of inspectors,⁹⁷ and conferring upon them a power of entry where there are reasonable grounds for suspecting that an offence under Section 1 is being, has been or is about to be committed on the premises.⁹⁸ It also confers extensive powers of inspection, including powers to search the premises,⁹⁹ to examine, measure, or test anything, including an animal, that is found on the premises,¹⁰⁰ to question any person on the premises,¹⁰¹ to require any person on the premises to give the inspector such assistance as the inspector may

⁸⁸ HM Government, Wild Animals In Circuses (Draft), April 2013, *supra* note 62, p7

⁸⁹ *ibid.* p5

⁹⁰ *ibid.* p5

⁹¹ *ibid.* p8

⁹² *ibid.* p8

⁹³ *ibid.* p9

⁹⁴ *ibid.* p9

⁹⁵ *ibid.* p9

⁹⁶ *ibid.* p9

⁹⁷ Wild Animals In Circuses (Draft) 2013, Schedule, 1

⁹⁸ *ibid.* Schedule, 2

⁹⁹ *ibid.* Schedule, 7.a

¹⁰⁰ *ibid.* Schedule, 7.b

¹⁰¹ *ibid.* Schedule, 7.c

reasonably require,¹⁰² to take a sample (including a sample from an animal),¹⁰³ to mark an animal found on the premises for identification purposes,¹⁰⁴ to take a photograph or video recording of anything, including an animal, that is found on the premises,¹⁰⁵ to require any person on the premises to produce any document or record (in whatever form it is held) that is in the person's possession or control,¹⁰⁶ to take copies of or extracts from any document or record found on the premises (in whatever form it is held).¹⁰⁷ to require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form,¹⁰⁸ and to seize anything, except an animal, that is found on the premises and which the inspector reasonably believes to be evidence of the commission of an offence under section 1.¹⁰⁹

The current regulation for the welfare protection of wild animals in travelling circuses – the license scheme with the support of the Animal Welfare Act 2006 and the Performing Animals (Regulation) Act 1925 – pales in comparison with the promise of the protection guaranteed by the Draft Bill, which implements a total ban on the use of wild animals in travelling circuses and provides extensive powers of investigation and enforcement. As it has already been stated, the government's intention was to bring forward an actual Bill "as soon as the legislative programme allows".¹¹⁰ This intention was reiterated in a written response in February 2016, however a date remains to be set.

Perhaps this should not come as a surprise. The process was initiated by a Labour Government with progress being made under the Coalition Government, however the Conservative Government has made no effort to bring forth the introduction of the actual Bill since gaining power and forming a single-party government in the 2015 general election. If anything, animal-related policy has been inimical to welfare development, as exemplified by two major proposals; the repealing the fox hunting ban, and the creation of industry-led deregulation.

There have been multiple attempts to repeal the foxhunting ban. Prior to the 2015 general election, former Prime Minister David Cameron promised that upon winning the election he would "hold a parliamentary vote on repealing the fox hunting ban",¹¹¹ advocating that "the Hunting Act [had] done nothing for animal

¹⁰² *ibid.* Schedule, 7.d

¹⁰³ *ibid.* Schedule, 7.e

¹⁰⁴ *ibid.* Schedule, 7.f

¹⁰⁵ *ibid.* Schedule, 7.g

¹⁰⁶ *ibid.* Schedule, 7.h

¹⁰⁷ *ibid.* Schedule, 7.i

¹⁰⁸ *ibid.* Schedule, 7.j

¹⁰⁹ *ibid.* Schedule, 7.k

¹¹⁰ Wild Animals In Circuses (Draft), Briefing Paper, *supra* note 62, p8

¹¹¹ Jon Stone, "David Cameron says he wants to repeal the fox hunting bill", (*The Independent*, 6 March 2015) <http://www.independent.co.uk/news/uk/politics/david-cameron-says-he-wants-to-repeal-the-fox-hunting-ban-10091571.html> accessed 14 June 2017

welfare”.¹¹² Ten years prior to this, Labour had ended the practice of hunting with dogs;¹¹³ since then, they have vowed to protect the Hunting Act, with the support of the League Against Cruel Sports that praised the Hunting Act as being “the most successful piece of wild animal welfare legislation in history”,¹¹⁴ receiving the support of “80% of the British public”.¹¹⁵ After gaining power, however, the Conservatives, led by David Cameron, withdrew the attempt to repeal the ban.¹¹⁶ The decision was made as the Scottish National Party held that it would vote against the change, thus breaking tradition and voting on an English-only matter on the basis that it was merely “a shabby attempt to repeal a successful piece of animal welfare legislation by the back door”.¹¹⁷ A recent attempt to repeal the ban was made by Prime Minister Teresa May as she pledged to hold a free vote if the Conservative Party gained a majority in the June 2017 general Election.¹¹⁸ The outcome of this attempt is yet to be seen.

The second example is an attempt by the Conservative government to repeal animal welfare codes in the form of a draft order to create industry-led deregulation.¹¹⁹ This initiative was led by Environmental Secretary Liz Truss in 2016 and conforms to a greater deregulation agenda, starting with the poultry industry and possibly developing into the cattle, sheep and pig farming industries also.¹²⁰ While criminal legislation would remain the same for any failure to meet standards, charities were worried that the move could “weaken animal welfare standards in farms and lead to fewer prosecutions for animal cruelty”.¹²¹ The Labour party criticised the decision, suggesting that these plans were “endangering Britain’s proud tradition as a country that stands up for animal welfare”,¹²² while the shadow environment secretary Kerry McCarthy held that “abandoning codes of practice for farm animal welfare is not in the best interests of the animals”.¹²³

Wild Animals in Travelling Circuses (Scotland) Bill

It is currently unclear when the English Government will implement the Bill banning the use of wild animals in travelling circuses. However in Scotland, which

¹¹² *ibid.*

¹¹³ *ibid.*

¹¹⁴ *ibid.*

¹¹⁵ *ibid.*

¹¹⁶ Rowena Mason, “Government shelves foxhunting vote after SNP opposition”, (*The Guardian*, 14 July 2015) <https://www.theguardian.com/uk-news/2015/jul/14/foxhunting-vote-shelved-by-tories-in-face-of-snp-opposition> accessed 14 June 2017

¹¹⁷ *ibid.*

¹¹⁸ Samuel Osbourne, “Teresa May announces she wants to bring back fox hunting”, (*The Independent*, 9 May 2017) <http://www.independent.co.uk/news/uk/politics/theresa-may-fox-hunting-bring-back-ban-repeal-conservative-tories-general-election-rural-vote-a7726506.html> accessed 14 June 2017

¹¹⁹ Rowena Mason, “Government planning to repeal animal welfare codes”, (*The Guardian*, 25 March 2016) <https://www.theguardian.com/lifeandstyle/2016/mar/25/government-planning-to-repeal-animal-welfare-codes> accessed 14 June 2017

¹²⁰ *ibid.*

¹²¹ *ibid.*

¹²² *ibid.*

¹²³ *ibid.*

legislates for animal welfare through devolved power, a ban against the use of wild animals in circuses is already underway. In May of this year, the Wild Animals in Travelling Circuses (Scotland) Bill began its progress through the Scottish Parliament. It is hoped that at some point next year the bill will be introduced so as to make it an offence for any person to cause or permit a wild animal to be used in a travelling circus.¹²⁴ The Bill came about after a Government consultation in 2014 that found that 98% respondents out of 2043 people favoured the banning of wild animals in circuses,¹²⁵ and a 2016 poll carried out for the More for Scotland's Animals coalition that 75% of respondents also favoured the ban.¹²⁶ Governmental response to this public sentiment was the acknowledgement that while "a licensing scheme might assist in protecting the welfare of wild circus animals",¹²⁷ it would "completely fail to address the ethical concerns" demonstrated by the consultation.¹²⁸

In 2007, Scotland led the UK by introducing a full ban for the tail-docking of puppies.¹²⁹ Scotland also protected the fox hunting ban that, without their intervention, would possible have been repealed following a free vote on the matter. Perhaps the implementation of the Wild Animals in Circuses (Scotland) Bill will motivate the English Parliament to hasten the introduction of its own bill. However given the lack of attention afforded to animal welfare interests by the Conservative Party, this seems unlikely, especially as their attention is currently focused on dealing with the aftermath of the snap general election and the greater issue of negotiating the terms of the UK's separation from the European Union, as well as other domestic matters that, historically, have always taken priority.

Conclusion

This critical analysis set out to provide a compelling case for current inadequacy of legislation protecting the welfare of wild animals used in travelling circuses. The Licensing Scheme, while comprehensive in the protection it affords, can never guarantee the welfare of wild animals used by circuses, given both the nature of the circus as a stressful environment, and the natures of the wild animals that, in such conditions, are limited in carrying out typical social habits and motivated behaviours. Only the implementation of the Wild Animals in Circuses Bill and the total ban that it entails can guarantee adequate welfare protection for wild animals. Scotland is currently in the process of implementing its own draft bill banning the use of wild animals in travelling circuses – just one of their many political actions in the interests of animal welfare. While in England a legislative Bill banning the use of animals has been drafted and should be ready for implementation, its coming into

¹²⁴ Libby Anderson, "Animal Welfare Announcements: glass three-quarters full" (*OneKind*, 11 May 2017) http://onekind.scot/onekindblog/article/animal_welfare_announcements_glass_three_quarters_full accessed 14 June 2017

¹²⁵ *ibid.*

¹²⁶ *ibid.*

¹²⁷ *ibid.*

¹²⁸ *ibid.*

¹²⁹ *ibid.*

effect has been postponed until there is sufficient time in the Parliamentary agenda.¹³⁰ With political attention focused almost entirely on the snap general election and, even more pressingly, the negotiation of England's withdrawal from the European union, it is unlikely that space will be found in the Parliamentary agenda any time soon. Indeed, considering the animal welfare record of the Conservative government, having previously tried to repeal the fox hunting ban and to create industry-led deregulation, I remain sceptical as to how soon, or if at all, the ban will come about in the foreseeable future.

¹³⁰ Elena Ares, Hannah Cromarty, *supra* note 1, p3